

Remarks/Arguments

Claims 1-16, 18-30, 32, and 33 are pending in the present application. In the February 17, 2004 Office Action, claims 1-8, 12-17, and 20-30 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,192,248 to Solondz (hereinafter "*Solondz*") in view of U.S. Patent No. 6,226,277 to Chuah (hereinafter "*Chuah*"). Claims 9-11 were rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah* and further in view of U.S. Patent No. 6,282,429 to Baiyor et al. (hereinafter "*Baiyor*"). Claims 18 and 19 were objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the recitations of the base claims and any intervening claims. By this Amendment, claims 1, 18, 20, 27, and 30 are amended, claim 17 is canceled, and new claims 32 and 33 are added. The applicant respectfully requests reconsideration of the present claims in view of the foregoing amendments and remarks.

I. Record of Telephone Interview

The applicant would like to thank Examiner Phan for the interview that took place on June 14, 2004 between himself, Leonard Hope, and Mike Baldauff. Examiner Phan agreed that the prior art of record does not teach temporarily discontinuing the transmission of a transaction of lower priority, and authorizing continued transmission of the discontinued transaction upon completion of the transmission of a transaction of higher priority.

II. Claim Rejections

Independent Claim 1

Claim 1 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. This rejection is respectfully traversed. Claim 1, as amended, recites "temporarily discontinuing a transmission of a lower priority transaction in favor of a higher priority transaction when network capacity reaches a predetermined level; and allowing the continued transmission of the lower priority transaction when network capacity allows." This amendment was made to clearly describe the temporary nature of the disconnection of the lower priority

transaction, which was suggested by the Examiner during the telephone interview of June 14, 2004.

The applicant respectfully submits that the cited combination fails to teach, suggest, or describe this recitation. *Solondz* does not teach discontinuing a transmission of a transaction in favor of a higher priority transaction. *Solondz* teaches processing call establishment requests in accordance with the service priority level of the first subscriber and service priority levels of second subscribers that are involved in telephone calls active in the cell. When call establishment requests are received during times of limited capacity, the higher priority calls are connected. *Solondz* does not disconnect calls of lower priority, temporarily or otherwise.

Likewise, *Chuah* fails to teach, suggest, or describe the recitation cited above. *Chuah* teaches disconnecting lower priority users that allow disconnection when a new user of higher priority requests connection to the wireless network. However, these users are permanently disconnected, as opposed to temporarily disconnected as recited by claim 1. *Chuah* does not allow the "continued transmission of the lower priority transaction when network capacity allows."

Additionally, the cited combination fails to teach, suggest, or describe "selected from a plurality of available priorities provided to the user" as recited by amended claim 1. Neither *Solondz* nor *Chuah* teaches providing available priorities to the user to select from. *Solondz* teaches a user priority that is tied to the user based on the fee he paid when subscribing. The user may also enter a particular code prior to a transaction in order to change his priority, but this is not equivalent to selecting from among the available plurality of priorities that are provided to the user as recited by claim 1. *Chuah* similarly teaches assigning priorities to a user and not selecting from a plurality of available priorities provided to the user. For at least this reason, and because claim 1 was amended to clarify the temporary nature of the disconnection of the lower priority transaction as suggested by the Examiner, independent claim 1 is allowable over *Solondz* in view of *Chuah*.

Dependent Claims 9 and 11

Claims 9 and 11 were rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah* and further in view of *Baiyor*. The applicant submits that the cited combination fails to teach, suggest, or describe “the step of providing a selection of a plurality of priorities available for each of a plurality of transaction types, wherein the selections of the plurality of priorities are subsets of priorities that are pre-determined by the network and are pre-selected by the subscriber” as recited by claim 9. Aspects of the invention recited by claim 9 include providing a plurality of available priorities for each transaction type.

For example, the subscriber may be provided with a selection of priorities that are available for an e-mail transaction such as priorities 3 and 4. Likewise, a voice-over-IP telephony transaction may have available priorities of 1, 2, and 3, which are provided to the subscriber for selection. The available priorities that are provided to the subscriber are “subsets of priorities that are pre-determined by the network and are pre-selected by the subscriber.” For example, using the e-mail illustration, the network may allow priorities 2, 3, and 4 to be selected. The subscriber may choose at the time of subscribing to the service that he is willing to pay for e-mails sent at priorities 3 and 4. Therefore, the subscriber has pre-selected priorities 3 and 4 for e-mail transactions from those pre-determined by the network, and will be provided with a choice for sending e-mail at either priority level 3 or 4 when he attempts to send e-mail in the future.

Baiyor is cited in the February 17, 2004 Office Action for teaching these recitations. The applicant respectfully disagrees. *Baiyor* teaches restricting access to the network to a selected set of subscribers with a high priority. The system is used so that emergency personnel can dial a code to get guaranteed access to the network in times of an emergency. This is not equivalent to providing a selection of available priorities for each transaction type or that the selections are subsets of priorities that are pre-determined by the network and are pre-selected by the subscriber. A similar rationale applies to dependent claim 11, where the selection of available priorities is a subset of priorities pre-configured in the user application and authorized by the network. Accordingly, for at least these reasons, and because claims 9 and 11 depend from allowable independent base claim 1, dependent claims 9 and 11 are allowable over *Solondz* in view of *Chuah* and *Baiyor*.

Dependent Claim 10

Claim 10 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah* and further in view of *Baiyor*. The applicant submits that the cited combination fails to teach, suggest, or describe “wherein the wireless communication transaction is generated by a user application, and the selection of the plurality of priorities provided is pre-configured in the user application” as recited by claim 10. None of the prior art cited teaches a selection of a plurality of priorities that is pre-configured in a user application. The cited art bases priorities on selections by the user or the network, but not by the user application itself. For at least this reason, and because claim 10 depends from allowable independent claim 1, dependent claim 10 is allowable over *Solondz* in view of *Chuah* and *Baiyor*.

Independent Claim 20

Claim 20 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. This rejection is respectfully traversed. The applicant amended claim 20, as suggested by the Examiner, to include the recitation “temporarily discontinuing the transmission of the transaction in favor of a higher priority transaction when network capacity reaches a predetermined level; and allowing the continued transmission of the transaction when network capacity allows.” As discussed above with respect to independent claim 1, this recitation is not taught by *Solondz* or *Chuah*.

Additionally, the cited combination fails to teach “broadcasting an indication of the capacity of the cell to wireless communications devices operated within the cell” and “wherein the selected priority level is determined based upon the capacity of the cell broadcasted to the wireless communications device” as recited by claim 20. Neither *Solondz*, nor *Chuah* teaches broadcasting cell capacity to wireless communication devices within the cell. The cited art does not teach evaluating the capacity of the cell and then broadcasting an indication of that capacity to the wireless devices operating within the cell. Consequently, neither reference teaches determining the priority level based upon the broadcasted capacity. For at least these reasons, independent claim 20 is allowable over *Solondz* in view of *Chuah*

Dependent Claim 21

Claim 21 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. Neither *Solondz* nor *Chuah* teaches “wherein the capacity of the cell is determined based upon an average amount of time required to transmit transactions at each priority level during a preceding time period” as recited by claim 21. For at least this reason, and because claim 21 depends from allowable independent claim 20, dependent claim 21 is allowable over *Solondz* in view of *Chuah*.

Dependent Claim 22

Claim 22 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. The applicant submits that the cited combination of *Solondz* in view of *Chuah* fails to teach, suggest, or describe “wherein the wireless communications device indicates a preferable priority level for the transaction to a subscriber based upon the indicated capacity of the cell” as recited by claim 22. According to aspects recited by claim 22, the wireless device may indicate a preferred priority for a transaction based upon the indication of the cell capacity that was broadcast to the device. Because the cited art does not teach broadcasting cell capacity or wireless devices that indicate to a subscriber a preferred transaction priority based on indicated cell capacity, and because claim 22 depends from allowable independent claim 20, dependent claim 22 is allowable over *Solondz* in view of *Chuah*.

Independent Claim 27

Claim 27 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. This rejection is respectfully traversed. The applicant amended claim 27 to include the recitation “receiving instructions to temporarily discontinue the transmission of portions of wireless communication transactions in favor of at least one higher priority transaction when network capacity reaches a predetermined level; and sending a request to continue the transmission of the portions of wireless communication transactions upon receiving a broadcast message that describes available network capacity.” As discussed above with respect to

independent claim 1, the combination of *Solondz* and *Chuah* fails to teach temporarily discontinuing the transmission of a transaction of lower priority, and continued transmission of the discontinued transaction. Further, as discussed above with respect to claim 20, *Solondz* and *Chuah* fail to teach broadcasting a message that describes available network capacity. For at least these reasons, independent claim 27 is allowable over *Solondz* in view of *Chuah*.

Dependent Claim 29

Claim 29 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. This rejection is respectfully traversed. The combination of *Solondz* in view of *Chuah* fails to teach, suggest, or describe “wherein the price of a wireless communication transaction is determined according to pro-rated rates when the priority selected is changed before the transmission of the transaction is completed” as recited by claim 29. The Examiner stated as reason for the indication of allowable subject matter in claims 18 and 19 that the prior art fails to disclose or suggest transmitting the remainder of a communication at a second selected priority and charging an amount for the remainder at a price corresponding to the second priority. Similar reasoning should apply to dependent claim 29 as well. Claim 29 recites pro-rating the rates charged for a transaction when the priority is changed before the transmission is complete. Because neither *Solondz* nor *Chuah* teaches this recitation, because of the reasoning applied by the Examiner in indicating that claims 18 and 19 contain allowable subject matter, and because claim 29 depends from allowable independent claim 27, dependent claim 29 is allowable over *Solondz* in view of *Chuah*.

Independent Claim 30

Claim 30 was rejected under 35 U.S.C. § 103(a) as being obvious over *Solondz* in view of *Chuah*. This rejection is respectfully traversed. The applicant amended claim 30, as suggested by the Examiner, to include the recitation “authorizing continued transmission of the discontinued transaction of lower priority upon completion of the transmission of the requested transaction.” As agreed upon by the Examiner during the telephone interview of June 14, 2004,

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the combination of *Solondz* in view of *Chuah* fails to teach, suggest, or describe this recitation. Accordingly, independent claim 30 is allowable over *Solondz* in view of *Chuah*.

New Claims 32 and 33

The applicant has added new claims 32 and 33 to incorporate the recitations of objected to claims 18 and 19, respectively, as well as the recitations of independent claim 1 and any intervening claims. Because of the reasons stated by the Examiner in the February 17, 2004 Office Action, claims 32 and 33 are allowable over the prior art of record.

Dependent Claims 2-8, 12-16, 18-19, 23-26, and 28

Because the cited art fails to teach, suggest, or describe the recitations of claims 2-8, 12-16, 18-19, 23-26, and 28, and because claims 2-8, 12-16, 18-19, 23-26, and 28 depend from allowable independent claims 1, 20, and 27, dependent claims 2-8, 12-16, 18-19, 23-26, and 28 are allowable over the cited art of record.

CONCLUSION

In view of the foregoing amendment and remarks, the applicant respectfully submits that the present application is in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any

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questions or comments concerning this matter, the Examiner is invited to contact the applicant's undersigned attorney at the number below.

Respectfully submitted,

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